

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1126
HOUSE BILL 775

AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 OF THE GENERAL STATUTES
TO PROVIDE LEGAL REPRESENTATION FOR THE INTERESTS OF THE
PETITIONER IN INVOLUNTARY COMMITMENT PROCEEDINGS BY A
PART-TIME PRIVATE ATTORNEY APPOINTED BY THE SENIOR RESIDENT
SUPERIOR COURT JUDGE.

Whereas, special counsel for the indigent respondent is provided by law in involuntary commitment proceedings; and

Whereas, neither the district attorney nor court appointed counsel is required to represent the interests of the petitioner and the community at large; and

Whereas, without representation for the petitioner and the community at large in involuntary commitment proceedings the hearings will not be balanced or truly adversarial in nature; and

Whereas, there is a conflict of interest in the district attorney's office representing petitioners in involuntary commitment proceedings when the respondent has criminal charges; and

Whereas, fundamental principles of traditional justice are violated without representation for both sides in the involuntary commitment issue; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.7(b) as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby rewritten to read as follows:

"(b) The senior regular resident superior court judge of a judicial district in which a regional psychiatric facility for the care and treatment of the mentally ill and inebriate is located shall appoint an attorney licensed to practice law in North Carolina as part-time special advocate to represent the petitioner's interest at all hearings, re-hearings, and supplemental hearings, held pursuant to this Article. Such part-time special advocate will serve at the pleasure of the appointing judge, may engage in the private practice of law, and shall receive annual compensation as fixed by the General Assembly. The special advocate shall be considered an independent contractor and not an employee of the State; accordingly, the State shall not withhold any taxes or social security from the compensation paid to such special advocate."

Sec. 2. There is hereby appropriated from the General Fund of the State of North Carolina to the Judicial Department, in addition to all other appropriations, the sum of forty thousand dollars (\$40,000) for the fiscal year 1977-78 and for the fiscal year 1978-79 the sum of forty thousand dollars (\$40,000), to pay an annual salary of ten thousand dollars (\$10,000) to each of the part-time special advocates.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.